

UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-12011-MLW

CARLOS A. AGUIAR,     )  
    Plaintiff         )  
                       )  
    v.                 )  
                       )  
LIMA & CURA FISHING   )  
CORPORATION,         )  
    Defendant         )

**ASSENTED-TO MOTION TO CONTINUE HEARING**  
**ON MOTION FOR SUMMARY JUDGMENT**

NOW COMES the Defendant in the above-captioned matter, LIMA & CURA FISHING CORPORATION ("L & C") and by and through their attorneys submit the following assented-to Motion to Continue Hearing on Motion for Summary Judgment. As grounds therefore, L & C submits the following:

**HISTORY**

1. The instant Matter arises out of a claim for personal injuries filed on behalf of the Plaintiff, Carlos Aguiar against L & C.
2. From the time period from December, 2005 through March, 2006, the Parties hereto filed cross motions for summary judgment, reply and response memoranda and cross motions to strike supporting affidavits and materials contained therein.
3. On or about 3/10/06 the Court cancelled the Hearing on the various motions and did not provide a new Hearing date.
4. Recently, counsel received Notice from the Court that the Hearing had been rescheduled for 9/15/06.

### RELEVANT FACTS

1. Defendant, L & C is represented by Attorney Joseph A. Regan, principle of Regan & Kiely, LLP. (please refer to Affidavit of Attorney Joseph A. Regan in support of Assented-To Motion to Continue Hearing Date, attached hereto as Exhibit "A", ¶ 2)
2. Attorney Regan is the President of and primary contact for applicants to the Christopher Sean Hayes Scholarship Fund which awards annual scholarships. (Exhibit "A", ¶ 3)
3. That scholarship fund was established in honor of a Suffolk Law School graduate and former Massachusetts attorney, Christopher S. Hayes, who passed away suddenly in 1995 at age 29 after practicing law for 4 years in Attorney Regan's firm. (Exhibit "A", ¶ 4)
4. The annual scholarship award presentation has been scheduled for 9/15/06 in Bourne, MA for quite some time. This is the same date that the Court has recently rescheduled the Hearing on the Motions and Cross-Motions in this Case. (Exhibit "A", ¶ 5)
5. Attorney Regan's presence at the annual award presentation on 9/15/06 is critical to the Fund's successful fundraising effort each year and crucial in the presentation of the scholarships in the presence of fund contributors. (Exhibit "A", ¶ 6)
6. At the present time, Attorney Regan in the only counsel of record for L & C and, accordingly, is the attorney in the best position to attend and present oral argument on the Hearings related to the various Motions and Cross-Motions pending with the Court. (Exhibit "A", ¶ 7)
7. Although Attorney Regan could send an associate to the 9/15/06 Hearing, it is in the

interest of the Parties and Court for Attorney Regan to attend himself based on his superior knowledge and familiarity with the issues at hand. (Exhibit "A", ¶ 8)

8. Attorney Regan has contacted counsel for the Plaintiff, David F. Anderson, and not only does the Plaintiff assent to this motion, but after conference the Parties submit the following dates on which to reschedule the Hearing: 9/18, 9/19, 9/20, 9/21, 9/22, 9/25, 9/27, 9/28, 10/2 or 10/3. (Exhibit "A", ¶ 10)

### ARGUMENT

Based on the prior obligations of Attorney Joseph A. Regan the Hearing on the Parties' Motions and Cross-Motions should be continued to a date as proposed herein or other date as is convenient for the Court. Attorney Regan's presence and involvement as President and primary contact for the Christopher Sean Hayes Scholarship Fund annual scholarship presentation previously scheduled for 9/15/06 is important to the Fund's continued ability to provide scholarships to Massachusetts college graduates. Although it is possible for Attorney Regan to send an associate from his firm to the Hearing it would not be in the Parties' or the Court's best interest. Attorney Regan is currently the only attorney of record for the Defendant, L & C and he has superior knowledge and familiarity with the various issues before this Court regarding the Motions and Cross-Motions pending. The Hearing will address a myriad of issues including several reply and response memoranda and cross motions to strike exhibits to the Parties' respective summary judgment motions. It is expected that the Hearing will be, by no means, a garden variety summary judgment/opposition to summary judgment argument as is commonly the case. L & C submits that Attorney Regan would be the proper attorney to present L & C's position clearly and succinctly to the Court at the Hearing.



Upon receipt of the Court's rescheduling of the Hearing for 9/15/06 he immediately contacted the Court and Attorney Anderson informing them of his necessary commitment to preside over the Christopher S. Hayes Scholarship Fund annual scholarship presentation event. He was informed by the Court that a Motion would be necessary to continue and reschedule that Hearing. Attorney Regan believes it would be in the Court's best interest to reschedule the Hearing instead of requiring his firm to send an associate in his stead who would likely not be as informed or succinct during oral argument. (Exhibit "A", ¶ 9) L & C submits this Motion to Continue and calls upon the Court to exercise its discretion in the interest of fairness and justice to reschedule the Hearing to one of the following dates which are available to the Parties:

September 18, 19, 20, 21, 22, 25, 27, 28; October 2, 3, 2006, or some other date as is convenient for the Court.

The Court's consideration and allowance of this Motion is appreciated by the Parties' hereto.

CONCLUSION

For the foregoing reasons, the Court should ALLOW the instant Motion to Continue the Hearing.

For the Defendant,  
Lima & Cura Fishing Corporation  
By their attorneys,

**REGAN & KIELY LLP**

/S/ Joseph A. Regan  
Joseph A. Regan - BBO #543504  
88 Black Falcon Ave., Ste. 330  
Boston, MA 02210  
(617) 723-0901  
jar@regankiely.com

clb/M1549.mot to continue hearing